

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 09-Cr-310

CHRISTINE R. PERKINS,

Defendant.

DECISION AND ORDER

Pro se Defendant Christine R. Perkins inquires regarding the impact of *Welch v. United States*, 136 S.Ct. 1257 (2016) and *Johnson v. United States*, 135 S.Ct. 2551 (2015) on her sentence, and requests permission to file a successive 28 U.S.C. § 2255 motion raising *Welch* and *Johnson* issues. (ECF Nos. 396, 397.)

Under the Antiterrorism and Effective Death Penalty Act (AEDPA), which establishes a “gatekeeping” mechanism for the consideration of ‘second or successive federal habeas corpus applications,’ a prisoner must ask the appropriate court of appeals to direct the district court to consider such an application. § 2244(b). *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998) (citation omitted). Without that authorization, the district court lacks jurisdiction over the petition. *Kramer v. United States*, 797 F.3d 493, 498 (7th Cir. 2015).

Perkins has filed her request to file a successive motion with the wrong court; however, for the following reasons the error is immaterial and the request is dismissed. On January 23, 2012, Perkins filed a § 2255 motion — opened as Case No. 12-C-64. On September 18, 2014, the Court approved Perkins' request to withdraw the motion, and the civil action was terminated. Consequently, Perkins' proposed § 2255 motion is not a successive petition for purposes of AEDPA. *See Martinez-Villareal*, 523 U.S. at 637-38.

In order to proceed further with *Welch* and *Johnson* issues, Perkins must file any § 2255 motion on this District's form. *See* Civil L.R. 9 (E.D. Wis.). A copy of the proper form will be sent to Perkins. Perkins is advised that she must include all contentions she intends to raise by such § 2255 motion, or she may be foreclosed from raising them by any subsequent successive § 2255 motion.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Perkins' request for leave to file a successive petition (ECF No. 397) is **DISMISSED**; and

The Clerk of Court is **DIRECTED** to send a copy of this District's § 2255 motion form to Perkins with her copy of this Decision and Order.

Dated at Milwaukee, Wisconsin, this 13th day of May, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge